

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
2010 Quadrennial Regulatory Review – Review)	MB Docket No. 09-182
of the Commission’s Broadcast Ownership)	
Rules and Other Rules Adopted Pursuant to)	
Section 202 of the Telecommunications Act of)	
1996)	
)	
Promoting Diversification of Ownership)	MB Docket No. 07-294
In the Broadcasting Services)	

COMMENTS OF A. H. BELO CORPORATION

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March 5, 2012

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COMMENTS OF A. H. BELO CORPORATION

I. INTRODUCTION AND SUMMARY

A. H. Belo Corporation¹ hereby submits its Comments in response to the *Notice of Proposed Rulemaking* (“NPRM”) issued on December 22, 2011 in the above-captioned proceeding.²

¹ A. H. Belo was formed in 2008 as a spin-off of its parent company, Belo Corp., which entered the media business in 1842 with the publication of its first newspaper. Today, A. H. Belo is a publicly traded company that owns and operates four daily newspapers and a diverse group of Web sites. A. H. Belo publishes *The Dallas Morning News*, Texas’ leading newspaper and winner of nine Pulitzer Prizes since 1986; *The Providence Journal*, the oldest continuously-published daily newspaper in the U.S. and winner of four Pulitzer Prizes; *The Press-Enterprise* (Riverside, CA), serving southern California’s Inland Empire region and winner of one Pulitzer Prize; and the *Denton Record-Chronicle*. Belo Corp., meanwhile, is one of the nation’s largest pure-play, publicly-traded television companies. Belo Corp. owns and operates 20 television stations, reaching more than 14 percent of U.S. television households in 15 markets. While A. H. Belo and Belo Corp. today are separate publicly-traded companies, the FCC’s cross-ownership limitations remain applicable to both because the companies share several common principals. Belo Corp. separately is filing comments in this proceeding concerning the local television ownership rule, which A. H. Belo supports. See Comments of Belo Corp., MB Docket No. 09-182 (filed Mar. 5, 2012) (“Belo Corp. Comments”).

² 2010 *Quadrennial Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, FCC 11-186, MB 09-182 (rel. Dec. 22, 2011) (“NPRM”).

In comments responding to the Commission's 2010 *Notice of Inquiry* ("NOI"),³ A. H. Belo and numerous other parties documented the existence of a highly competitive media marketplace and advocated repeal of the outdated newspaper/broadcast cross-ownership ("NBCO") rule. The comments also demonstrated that the grandfathered combination of *The Dallas Morning News* and WFAA-TV in Dallas-Fort Worth offers a compelling case study in how newspaper/broadcast combinations provide exceptional local news and other locally-oriented services without threatening competition or diversity.⁴

Since those comments were submitted, the Internet has continued to grow at an explosive rate and to mature into a ubiquitous and extremely formidable player in the news and information marketplace. Moreover, a vast array of increasingly sophisticated broadband-enabled competitors exert undeniable influence on every aspect of that marketplace. Yet while marketplace conditions cry out for liberation of newspaper publishers and broadcasters from the burdens of the NBCO rule, the *NPRM's* proposals once again offer little if any practical relief. Accordingly, A. H. Belo again urges the Commission finally to repeal the NBCO rule or, at a minimum, to relax it to afford meaningful opportunities for broadcasters and publishers in a broad range of markets to pursue efficient and synergistic combinations that will bolster their ability to serve their local audiences. In addition, in the event the FCC determines to retain some form of the NBCO restriction, A. H. Belo urges the Commission to avoid expanding the scope of the

³ See 2010 *Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Inquiry, 25 FCC Rcd 6086 (2010) ("NOI").

⁴ Comments of A. H. Belo Corporation, MB Docket No. 09-182 (filed July 12, 2010) ("A. H. Belo NOI Comments").

NBCO rule by substituting Nielsen DMAs for Grade A contours as the trigger for application of the regulation without further qualification or fine-tuning, and to permanently grandfather all combinations permissible under the 1975 rule.

II. THE NEWSPAPER/BROADCAST CROSS-OWNERSHIP RULE SHOULD BE ELIMINATED OR GREATLY RELAXED

A. The Commission Has Recognized and the Third Circuit Has Affirmed that the 1975 Ban Is Obsolete

More than 16 long years have passed since the FCC itself expressly recognized that the NBCO rule should be reformed and Congress mandated a periodic review of *all* of the media ownership rules to eliminate or modify those that were no longer necessary in light of competitive conditions.⁵ Since then, the FCC has initiated, but never completed, a series of proceedings aimed at reevaluating and eliminating or recalibrating the rule.⁶ Indeed, in that period, the Commission has not put into effect a single significant deregulatory measure relating to its restrictions on media ownership. Thus, the NBCO rule sweeps as broadly today as it did in 1975, and the local ownership rules are essentially unchanged since 1999.

⁵ See *Capital Cities/ABC, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd. 5841, 5888, 5906 (1996). As then-Chairman Reed Hundt remarked, “there is reason to believe that ... the newspaper-broadcast cross-ownership rule ... is right now impairing the future prospects of ... the newspaper industry” while “unnecessarily denying broadcasters revenues they could put to good use.” See also Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h); 47 U.S.C. § 161. Section 202(h) requires the Commission to determine whether its media ownership rules remain “necessary in the public interest as the result of competition” and to “repeal or modify any regulation it determines to be no longer in the public interest.”

⁶ See, e.g., 1998 *Biennial Regulatory Review*, Biennial Review Report, 15 FCC Rcd 11,058, 11,102 (¶ 83) (2000); 2000 *Biennial Regulatory Review*, Report, 16 FCC Rcd 1207, 1218 (¶ 32) (2001); *Cross-Ownership of Broad. Stations and Newspapers; Newspaper/Radio Cross-Ownership Policy*, Order and Notice of Proposed Rulemaking, 16 FCC Rcd 17,283 (2001). During this period, the Commission has continued to acknowledge that the NBCO rule is in need of reform.

In its two most recent media ownership reviews, the FCC twice determined that the NBCO rule as adopted in 1975 no longer served the public interest.⁷ The U.S. Court of Appeals for the Third Circuit agreed with this determination more than seven years ago, thereby confirming that the FCC was obligated to eliminate the absolute ban under the congressional mandate set forth in Section 202(h) of the Telecommunications Act of 1996.⁸ Yet, because of a cycle of repetitious inquiries, rulemakings, and judicial appeals that have forestalled final action, the rule has remained intact. Most recently, the Court of Appeals remanded even the exceedingly modest revisions to the NBCO rule adopted in the 2006 Quadrennial Review on “notice and comment” grounds, without reaching the merits.

In the *NPRM*, the Commission states that it “continue[s] to believe . . . that a blanket prohibition on newspaper/broadcast combinations is overly broad and does not allow for certain cross-ownerships that may carry public interest benefits.”⁹ In addition, the agency recognizes that “[t]he proliferation of broadband Internet and other new

⁷ In the decision issued in conjunction with its 2002 Biennial (“Omnibus”) Review, for instance, the FCC remarked that an absolute NBCO prohibition was no longer necessary to serve the competition, localism, and diversity public interest objectives the Commission has relied on to justify broadcast ownership regulation. *2002 Biennial Regulatory Review – Review of the Comm’ns Broad. Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecomms. Act of 1996*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13,620 (¶¶ 327, 330, 368-69) (2003) (“*2003 Order*”), *aff’d in part, remanded in part, Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004), *cert. denied*, 545 U.S. 1123 (2005). Similarly, in its most recent order the FCC concluded that “retention of a complete [newspaper/broadcast cross-ownership] ban is not necessary in the public interest as a result of competition, diversity, or localism.” *2006 Quadrennial Regulatory Review – Review of the Comm’ns Broad. Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecomms. Act of 1996*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, 2012 (¶ 19) (2008) (“*2008 Order*”); *see also* 47 U.S.C. § 161.

⁸ As the Court put it, “[t]he Commission’s decision not to retain a ban on newspaper/broadcast cross-ownership is justified under § 202(h) and is supported by record evidence.” *Prometheus*, 373 F.3d at 398.

⁹ *NPRM*, ¶¶ 89-90, 101-102.

technologies has had a dramatic impact on the media marketplace.”¹⁰ As a result, “[b]roadcast and newspaper consumption in traditional forms is in decline, and advertising revenues have been shrinking in recent years.”¹¹ Notwithstanding these undeniable truths, the Commission proposes only the re-adoption of the extremely limited and convoluted 2006 waiver provisions that offer little or no practical relief.¹²

While the FCC has equivocated, the marketplace has moved on, inexorably. Indeed, the transformation in the marketplace clearly has made the unnecessary and inequitable regulatory burdens the rule imposes on newspaper publishers and broadcasters increasingly insupportable in the second decade of the 21st century.

B. The Reasons to Eliminate or Substantially Relax the NBCO Rule Are More Compelling than Ever

The myriad informational sources available in today’s media marketplace dwarf those that were available when the NBCO rule was adopted nearly 40 years ago. As the *NPRM* acknowledges, with “[c]onsumers . . . increasingly turning to online and mobile platforms to access news content and audio and video programming[,] . . . content providers are increasingly looking to the Internet and other new media platforms to bypass traditional media and reach consumers directly.”¹³ With a plethora of evidence before it, the Commission must also now recognize that the ever-increasing role of the Internet as a go-to source of news, information, and entertainment coupled with the

¹⁰ *NPRM*, ¶ 2.

¹¹ *NPRM*, ¶ 3.

¹² See *NPRM*, ¶¶ 84-117; see also A. H. Belo *NOI* Comments at 7-8.

¹³ *NPRM*, ¶ 2.

severe challenges faced by traditional media have rendered the cross-ownership rule obsolete.

In June 2011, the FCC's Future of Media Working Group, led by former journalist Steve Waldman, released a comprehensive analysis of the current media landscape (the "*Report*") that reaffirms the troubling economic trends faced by newspapers and broadcasters in light of the Internet's increasing presence.¹⁴ For newspapers, the *Report* paints a bleak picture of decreased advertising revenue, decreased spending on reporting and editing, and massive layoffs for journalists.¹⁵ And though the *NPRM* attempts to put a positive spin on the Internet's impact on newspapers,¹⁶ the *Report* undercuts any argument that newspapers' migration to the Internet is sufficient to offset their continuing difficulties:

"Online ad revenue for the entire newspaper industry grew by a billion between 2005 and 2010. But print advertising lost \$24.6 billion. This led to the saying in the newspaper world that 'print dollars were being replaced by digital dimes.' That turns out to be a rather cheerful way of phrasing it. More accurately: each print dollar was being replaced by four digital pennies."¹⁷

¹⁴ Steve Waldman & the Working Group on Information Needs of Communities, *The Information Needs of Communities: The Changing Media Landscape in a Broadband Age* (June 2011) ("*Report*"), available at http://transition.fcc.gov/osp/inc-report/The_Information_Needs_of_Communities.pdf (last visited Sept. 26, 2011).

¹⁵ *Report*, at 34-39.

¹⁶ See, e.g., *NPRM*, ¶ 3 (stating that the Internet "provides [newspapers] opportunities to reach new audiences and generate new revenue streams").

¹⁷ *Report*, at 39. The Newspaper Association of America estimated that total annual print newspaper advertising revenue in 2011 will be the lowest in 60 years and less than one-third of the \$64 billion spent in 2000. Mark J. Perry, *Newspaper Ad Revenues Fall To 60-Year Low In 2011*, SeekingAlpha.com (Feb. 27, 2012), available at <http://seekingalpha.com/article/393431-newspaper-ad-revenues-fall-to-60-year-low-in-2011>.

The *Report* also confirms that the television broadcast industry faces similar challenges. As “[t]he broadcast audience continue[s] its drift to cable, satellite, and the Internet,” the *Report* indicates that local television news pre-tax profits dropped 56.3% between 1998 and 2008.¹⁸ The financial strain hit newsrooms particularly hard, with nearly two-thirds of local television news directors reporting staff cuts in 2009 and the median full-time staff of stations dropping from 32 in 2006 to 29 in 2009.¹⁹

Another recent study by the Pew Research Center and the Knight Foundation reinforces the data in the *Report*. “The [I]nternet has already surpassed newspapers as a source Americans turn to for national and international news. The findings from this survey now show its emerging role as a source for local news and information as well.”²⁰ The fact that more people are turning to the Internet for local topics “poses a major challenge to more traditional news providers, especially newspapers, which have often aspired to be a relatively comprehensive source of information on all of these topics.”²¹

Notwithstanding the astonishing development of the Internet and other new media, daily newspapers and local television broadcasters remain the primary originators of local news and the principal vehicles for investigative or enterprise journalism. These legacy media outlets face the challenge of creating new business models to support their

¹⁸ *Report*, at 73-74 (citing a National Association of Broadcasters report).

¹⁹ *Report*, at 79 (citations omitted).

²⁰ Pew Project for Excellence in Journalism, Pew Internet & American Life Project & Knight Foundation, *How People Learn About Their Local Community* (Sept. 2011) at 22, available at http://www.knightfoundation.org/media/uploads/publication_pdfs/Pew_Knight_Local_News_Report_FIN_AL.pdf (last visited Sept. 27, 2011) (“*Pew Study*”); see also *id.* at 22 (noting that the Internet is either the most popular source or tied with newspapers as the most popular source among all adults for five of the 16 local topics covered by the survey, and that the Internet is an even more significant source for local news and information among the 79 percent of Americans who are online).

²¹ *Pew Study*, at 22.

continued efforts to meet the information needs of 21st century consumers. A. H. Belo respectfully submits that the Commission should move forward expeditiously to eliminate the archaic barriers to efficient combinations erected nearly 40 years ago, in a world that quite clearly no longer exists.

C. **The Cooperative Efforts of *The Dallas Morning News* and WFAA-TV Continue to Epitomize the Benefits of Cross-Ownership**

In its comments responding to the *NOI*, A. H. Belo demonstrated the undeniable public interest benefits derived from the longstanding combination of *The Dallas Morning News* (published by A. H. Belo) and WFAA-TV (licensed to a subsidiary of Belo Corp.).²² The comments showed that the synergistic relationship between the two competing news organizations has fostered unmatched, award-winning in-depth reporting, analysis, and investigative journalism, but has not led to coordinated opinions or viewpoints. Since those comments were filed, the relationship of *The Dallas Morning News* and WFAA-TV has continued to offer a compelling case study of the public interest benefits that result from cross-ownership.

Because each news organization is able to draw on the newsgathering resources of the other, each has more journalistic firepower at its disposal than their respective competitors. For example, in 2010, *The Dallas Morning News* won its ninth Pulitzer Prize since 1986 for a series of editorials documenting the economic disparities between

²² A. H. Belo *NOI* Comments, at 8-13; *see also* *NPRM*, ¶ 93 n.214. A. H. Belo (previously through its former parent company, Belo Corp.) has actively participated in past media ownership reviews and repeatedly has illustrated the concrete benefits that derive from cross-ownership. *See, e.g.*, Comments of Belo Corp., MB Docket No. 06-121 (filed Oct. 23, 2006); Comments of Belo Corp., MB Docket No. 02-277 (filed Jan. 2, 2003); Reply Comments of Belo Corp., MB Docket No. 02-277 (filed Feb. 3, 2003).

north and south Dallas.²³ Likewise, as evidence of WFAA-TV's dedication to high-quality investigative work, WFAA was honored in December 2011 with the Alfred I. duPont-Columbia University Silver Baton for its investigative report on the multi-billion dollar for-profit career school industry.²⁴ The story, which exposed questionable practices used by schools to recruit and train students, also won George Foster Peabody and Edward R. Murrow awards. That both *The Dallas Morning News* and WFAA-TV dedicate resources to costly and resource-intensive investigative reporting is attributable in substantial part to the efficiencies possible during their long history of common ownership and their continuing collaborative relationship.

The dedication of A. H. Belo and Belo Corp. to the local communities they serve and their commitment to high-quality journalism extends to their other newspapers and stations as well. In July 2011, *The Providence Journal* won 20 New England Associated Press News Executives Association awards.²⁵ In June 2011, KING-TV (Seattle/Tacoma), KMOV-TV (St. Louis), KGW-TV (Portland), and KTVB (Boise) were honored with five 2011 national Edward R. Murrow Awards.²⁶

²³ Michael E. Young, *Dallas Morning News Wins Pulitzer for Editorial Writing*, DALLASNEWS.COM, Apr. 13, 2010, available at http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/DN-pulitzer_13met.ART.State.Edition2.4c8d9fa.html.

²⁴ Press Release, Belo Corp., *WFAA-TV Honored with an Eleventh duPont-Columbia University Silver Baton for Excellence In Journalism* (Dec. 21, 2011), available at <http://www.belo.com/newsroom/releases/WFAA-TV-Honored-with-an-Eleventh-duPont-Columbia-University-Silver-Baton-for-Excellence-In-Journalism-136015228.html>.

²⁵ Press Release, New England Associated Press News Executives Association, *2011 Award Winners*, available at http://neapnea.org/joomla/index.php?option=com_content&task=category§ionid=1&id=13&Itemid=37 (last visited Feb. 27, 2012).

²⁶ Press Release, Five Belo Television Stations Honored with Seven National Edward R. Murrow Awards (June 15, 2011), available at <http://www.belo.com/newsroom/corporate/Five-Belo-Television-Stations-Honored-With-Seven-National-Edward-R-Murrow-Awards-123910904.html>. WFAA-TV also won two national 2011 Murrow awards.

The dramatic revenue declines for newspapers threaten to hamper their ability to provide the same levels of cost-intensive local newsgathering and investigative reporting. Repeal or relaxation of the cross-ownership rule would foster more efficient operation, alleviate financial strain, and ensure that these legacy media outlets will continue to have the resources to serve their communities in the future. A. H. Belo submits that preserving the ability of daily newspapers and broadcasters to serve their local communities should be the central consideration in this proceeding, and that repeal or significant relaxation of the NBCO rule is clearly necessary to further that objective. At a minimum, the Commission should modify the NBCO rule to permit cross-ownership in a broad range of markets and craft a reasonable and flexible waiver standard for cases that do not meet the remaining bright-line test for exemption. *See* Belo Comments at 9-10.

III. EXPANDING THE SCOPE OF THE NEWSPAPER/BROADCAST CROSS-OWNERSHIP RULE FROM GRADE A CONTOURS TO NIELSEN DMAS WITHOUT FURTHER QUALIFICATION IS UNWARRANTED AND COULD HAVE SERIOUS NEGATIVE CONSEQUENCES NOT INTENDED BY THE FCC

A. H. Belo recognizes the need to reformulate some FCC regulations to reflect the transition to digital television. The Commission's proposal in the *NPRM* to substitute Nielsen DMAs for Grade A contours as the triggers for NBCO restrictions, however, would actually expand the reach of the rule in many markets – a result that would be directly contrary to the intent of Congress in Section 202(h).²⁷ Given that the FCC has already acknowledged that the existing ban on cross-ownership is unjustified and counterproductive, there can certainly be no rational justification for *increasing* its

²⁷ *See NPRM*, ¶¶ 99-100.

restrictiveness. Accordingly, the proposal to shift to a DMA-based approach should, at the very least, be appropriately qualified to avoid such a result.

When the NBCO rule was implemented in 1975, the Commission purposely chose the less restrictive Grade A contour over the larger Grade B contour, consistent with the approach taken under the radio/TV cross-ownership rule.²⁸ In the radio/TV cross-ownership proceeding, the Commission stated that the Grade B contour encompassment “went further than [it] thought necessary to achieve the desired ends of the proposed rules,” which focused on service to specific local communities.²⁹ DMAs, however, are often even larger still than a television station’s Grade B contour.

A. H. Belo agrees that any remaining cross-ownership restriction can and should be delimited so as not to apply to daily newspapers and television stations located in separate DMAs, such as the neighboring Baltimore and Washington, D.C. television markets.³⁰ However, the substitution of DMAs for the Grade A encompassment standard would, in many geographically-large DMAs, expand the scope of the rule dramatically. For example, the Washington, D.C. DMA stretches across four states and the District of Columbia and includes such far-flung communities as Hagerstown, Maryland,

²⁸ *Amendment of Sections 73.34, 73.240, and 73.636 of the Commission’s Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Station*, Second Report and Order, 50 F.C.C. 2d 1046, ¶ 102 (1975) (“We have decided to follow the parallel of the multiple ownership rule already adopted in this proceeding which bars new TV-radio combinations within certain specified contours, namely Grade A for television. . .”).

²⁹ *Amendment of Sections 73.34, 73.240, and 73.636 of the Commission’s Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Station*, First Report and Order, 18 R.R. 2d 1735, ¶ 32 (1970). “[U]nder the new rules . . . the stations must be closer together in order to fall under the proscription against common ownership.” *Id.*, ¶ 31.

³⁰ See *NPRM*, ¶¶ 99-100.

Fredericksburg and Winchester, Virginia, and Keyser, West Virginia.³¹ The boundaries of the DMA go well beyond the former Grade A contours of the TV stations licensed to Washington or nearby communities. Other examples are the Phoenix DMA, which extends across the entire width of Arizona,³² and the Dallas-Fort Worth DMA, which includes a distance of more than 100 miles from Dallas to the Red River separating Texas and Oklahoma.³³ A cross-ownership ban this far-reaching does not appear to have been intended by the Commission and cannot rationally be justified.

As a common sense solution to avoid expanding the NBCO rule, the Commission could add a mileage qualifier to the DMA measurement, or permit reference to the former Grade A contours of television stations to ensure that the rule does not sweep more broadly than it has in the past. And if the DMA concept is utilized, A.H. Belo submits that logical consistency would limit the application of the rule to “major” daily newspapers, previously defined as those with circulation exceeding five percent of the households in the DMA.³⁴ The current radio-television cross-ownership rules rely on such a “major newspaper” standard in determining media voices,³⁵ and the Commission has also utilized that standard in crafting the NBCO waiver provisions adopted in the 2006 proceeding and proposed again in the *NPRM*.³⁶ In no case, however, should the

³¹ Broadcasting & Cable Yearbook 2009, B-227 (Laurie Kaplan et al. eds., 2008).

³² *Id.*, B-208.

³³ *Id.*, B-167.

³⁴ 2006 Quadrennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, ¶ 57 n.183 (2008) (“2006 Quadrennial Review Order”).

³⁵ 47 C.F.R. § 73.3555(c)(3)(iii).

³⁶ 2006 Quadrennial Review Order, ¶ 57.

NBCO rule be expanded to apply to combinations that would not have fallen within the scope of the 1975 rule.

Finally, if the Commission nevertheless determines to adopt DMAs as the market indicator for the NBCO rule, A. H. Belo agrees that the Commission must grandfather ownership of existing combinations and permit their sale in combination.³⁷ The current NBCO rule has been in place for many decades, with no prior suggestion by the Commission that it might expand its reach in any way. Numerous parties have entered into transactions and invested in newspaper and television properties in reliance on the existing rule, including in particular its contour encompassment components.³⁸ Any action by the Commission that would retroactively impair those investments would be highly inequitable and clearly unwarranted.

IV. CONCLUSION

For the aforementioned reasons, A. H. Belo respectfully submits that the FCC should eliminate or substantially relax the newspaper/broadcast cross-ownership rule. In addition, if the FCC determines to keep any form of NBCO restrictions, A. H. Belo urges the Commission to avoid the unintended consequences of expanding the scope of the NBCO rule by substituting Nielsen DMAs for Grade A contours as the trigger for

³⁷ See *NPRM*, ¶ 100.

³⁸ See *KCMC, Inc. v. FCC*, 600 F.2d 546, 549 (5th Cir. 1979) (adopting a strict interpretation of contour encompassment for purposes of triggering the former newspaper/broadcast rule divestiture requirements).

application of the regulation. Finally, any change that may be adopted must be prospective only, and must not be implemented in a way that would prejudice the owners of existing combinations established in reliance on a rule in effect for nearly 40 years.

Respectfully submitted,

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March 5, 2012

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